

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHRISTOPHER JAMES WITHROW,
DAVID J. WITHROW, and MARILYN
N. WITHROW,

Plaintiffs,

vs.

NICHOLAS MIZELLE, DEBORAH
MIZELLE, MALLORY MIZELLE,
MARCI MIZELLE, REGIONAL
WEST MEDICAL CENTER, STATE
OF NEBRASKA, STATE BOARD OF
HEALTH VITAL RECORDS,
SCOTTS BLUFF COUNTY ADULT
DETENTION CENTER, and UNITED
STATES DEPARTMENT OF JUSTICE
MARSHAL SERVICE,

Defendants.

8:18CV164

ORDER

This matter is before the court on Plaintiffs’ “Notice of Voluntary Dismissal Pursuant to [Federal Rule of Civil Procedure 41\(a\)\(1\)\(A\)\(i\)](#).” ([Filing No. 10](#).) Rule 41(a) states that a plaintiff may dismiss an action without a court order by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” [Fed. R. Civ. P. 41\(a\)\(1\)\(A\)\(i\)](#). In addition, Rule 41(a)(2) provides that an action may be dismissed at the plaintiff’s request “on terms that the court considers proper.” [Fed. R. Civ. P. 41\(a\)\(2\)](#). Here, Plaintiffs ask the court to dismiss this action and Defendants have not been served with process. Accordingly,

IT IS ORDERED that:

1. Plaintiff's request for dismissal of this action ([filing no. 10](#)) is granted. This matter is dismissed without prejudice.

2. A separate judgment will be entered in accordance with this Memorandum and Order.

Dated this 5th day of July, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge